IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 849 OF 1989

The State of Maharasthra,
through the Collector Sangli. ... Appellant.
(Org.Opponent No.1)

Versus.

1. Maruti alias Baban Anant Patil.
2. Dinker Dhondi Patil.
3. The Administrator, Uran-Islampur Nagar Parishad, Islampur, Dist. Sangli. ... Respondents.
(Nos.1 & 2 - Org. Claimants & No.3- Org.Opponent No.2)

Shri K.K.Tated for the Appellant.

Shri B.R.Patil for the Respondents No.1 & 2.

CORAM : ABHAY S.OKA, J.

DATED : 16th March, 2006.

ORAL JUDGMENT.

1. Heard Shri Tated, learned A.G.P. for the Appellant and Shri B.R.Patil for Respondents Nos.1 and 2.

2. In this appeal the challenge is to the judgment and award made by the trial Court in a Reference under

section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act of 1894"). The Appeal relates to the land totally admeasuring about 15 ares out of R.S.No.6/5, R.S.No.6/6 and R.S.No.6/7 situated at Urun-Islampur. The acquisition is under the provisions of the Maharashtra Regional and Town Planning Act, 1966 read with the provisions of the said Act of 1894. The notification under section 126(4) of the said Act of 1966 was issued on 26th April 1983 and the award under section 11 was made on 15th December 1983. The Land Acquisition Officer determined the market value of the acquired land at the rate of Rs.77,500/- per hectare. By the impugned Judgment and Award, the market value was fixed at the rate of Rs.3,50,000/- per hectare.

3. Shri Tated, the learned A.G.P. appearing for the State submitted that the sale instances on which reliance is placed by the Claimants were relating to developed plots. He submitted that the area of acquired land is bigger than the area of the land covered by the said sale instances and therefore, the said sale instances cannot be said to be comparable. He submitted that the acquired land was admittedly agricultural land at the time of acquisition and therefore, suitable deduction on account of development charges ought to

have been made.

4. Shri Patil appearing for the Respondents Nos.1 and 2 pointed out that there is no much difference between the area of land covered by the sale instances and the acquired land. He pointed out that the lands acquired are developed lands and are situated within the municipal area and therefore, it is not necessary to make deduction on account of development charges.

5. I have considered the submissions of the learned Advocates appearing for the parties. The first sale instance at Exh.27 is the sale deed dated 20th January 1982 in respect of adjoining land bearing R.S.No.4 admeasuring 17.5 Ares. The second sale instance at Exh.28 is of sale deed dated 21st September 1982 in respect of adjoining land bearing R.S.No.4 admeasuring 1403 Ares. The market value reflected from the said sale instances is Rs.4,15,000/- and Rs.4,36,000/- per hectare. In the present case the relevant date for determination of market value is 26th April 1983.

6. The two sale instances are of the year 1982 which are before the relevant date. However, the date of sale instances is in near proximity to the relevant date. The said sale instances are pertaining to

different portions of the land bearing R.S.No.4 which is adjacent to the acquired land. The said instances show that there was a steady rise in the price of land atleast in the year 1982. Thus the sale instances relied upon by the trial Court cannot be ignored. However, the necessary deduction will have to be made on account of development charges.

7. The Apex Court in a decision reported in (1995) 5 S.C.C. page 433 (Municipal Committee and others v/s. Balwant Singh) held that if the agricultural lands are situated within the municipal limit and nearer to the built up area, the lands have potential value for residential and commercial purposes. In a decision of the Apex Court reported in 2003 (11) SCC page 354 (Kastoori and others v/s. State of Haryana) the Apex Court held that normally 1/3rd of the compensation has to be deducted as development charges subject to certain variation. In the facts of the case before the Apex Court, it was held that 20% of the market value will have to be deducted as development charges.

8. Considering the sale instances, the value of the acquired land on the relevant date cannot be less than Rs.4,40,000/- per hectare. Therefore, even if deduction is made at the rate of 15% to 20%, the market rate of

Rs.3,50,000/- per hectare awarded by the Reference Court cannot be said to be unreasonable.

9. Considering the evidence on record, a reasonable amount has been awarded by the trial Court. Hence no interference is called for. The First Appeal is dismissed with no order as to costs.

Judge.